

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1519

To amend the Internal Revenue Code of 1986 to allow a credit for the construction and renovation of nonresidential buildings in distressed areas.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1995

Ms. WATERS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for the construction and renovation of nonresidential buildings in distressed areas.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Low Income Commu-  
5 nity Development Tax Credit Act of 1995”.

6 **SEC. 2. CREDIT FOR NONRESIDENTIAL BUILDINGS CON-**  
7 **STRUCTED OR RENOVATED IN DISTRESSED**  
8 **AREAS.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-  
10 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by  
 2 adding at the end the following new section:

3 **“SEC. 45C. CREDIT FOR NONRESIDENTIAL BUILDINGS IN**  
 4 **DISTRESSED AREAS.**

5 “(a) IN GENERAL.—For purposes of section 38, the  
 6 amount of the distressed area building credit determined  
 7 under this section for any taxable year in the credit period  
 8 shall be an amount equal to—

9 “(1) the applicable percentage of

10 “(2) the eligible basis of each qualified dis-  
 11 tressed area building.

12 “(b) APPLICABLE PERCENTAGE: 70 PERCENT  
 13 PRESENT VALUE CREDIT FOR CERTAIN NEW BUILDINGS;  
 14 30 PERCENT PRESENT VALUE CREDIT FOR CERTAIN  
 15 OTHER BUILDINGS.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘applicable per-  
 17 centage’ means the appropriate percentage pre-  
 18 scribed by the Secretary for the earlier of—

19 “(A) the month in which such building is  
 20 placed in service, or

21 “(B) at the election of the taxpayer—

22 “(i) the month in which the taxpayer  
 23 and the credit allocating agency enter into  
 24 an agreement with respect to such building  
 25 (which is binding on such agency, the tax-

1 payer, and all successors in interest) as to  
 2 the building credit dollar amount to be al-  
 3 located to such building, or

4 “(ii) in the case of any building to  
 5 which the rules of section 42(h)(4)(B)  
 6 apply, the month in which the tax-exempt  
 7 obligations are issued.

8 A month may be elected under clause (ii) only if the  
 9 election is made not later than the 5th day after the  
 10 close of such month. Such an election, once made,  
 11 shall be irrevocable.

12 “(2) METHOD OF PRESCRIBING PERCENT-  
 13 AGES.—

14 “(A) IN GENERAL.—The percentages pre-  
 15 scribed by the Secretary for any month shall be  
 16 percentages which will yield over a 10-year pe-  
 17 riod amounts of credit under subsection (a)  
 18 which have a present value equal to—

19 “(i) 70 percent of the eligible basis of  
 20 a new building, and

21 “(ii) 30 percent of the eligible basis of  
 22 an existing building.

23 “(B) INCREASED CREDIT FOR BUILDINGS  
 24 IN MORE DISTRESSED AREAS.—In the case of  
 25 buildings located in a census tract which would

1 be a distressed area if ‘50 percent’ were sub-  
2 stituted for ‘80 percent’ in subsection (c)(2),  
3 subparagraph (A) shall be applied by substitut-  
4 ing ‘75 percent’ for ‘70 percent’ and ‘35 per-  
5 cent’ for ‘30 percent’.

6 “(c) QUALIFIED DISTRESSED AREA BUILDING; DIS-  
7 TRESSED AREA.—For purposes of this section—

8 “(1) QUALIFIED DISTRESSED AREA BUILD-  
9 ING.—The term ‘qualified distressed area building’  
10 means any building (other than residential rental  
11 property) which, when placed in service, is located in  
12 a distressed area.

13 “(2) DISTRESSED AREA.—The term ‘distressed  
14 area’ means any census tract in which, for the most  
15 recent year for which census data are available on  
16 household income in such tract, 70 percent or more  
17 of the households have an income which is 80 per-  
18 cent or less of the area median gross income (within  
19 the meaning of section 142(d)) for such year.

20 “(d) ELIGIBLE BASIS.—For purposes of this section,  
21 the eligible basis of any building shall be determined under  
22 the rules of paragraphs (1) and (2) of section 42(d).

23 “(e) REHABILITATION EXPENDITURES TREATED AS  
24 SEPARATE NEW BUILDING.—

1           “(1) IN GENERAL.—Rehabilitation expenditures  
2       paid or incurred by the taxpayer with respect to any  
3       building shall be treated for purposes of this section  
4       as a separate new building.

5           “(2) REHABILITATION EXPENDITURES.—For  
6       purposes of paragraph (1)—

7           “(A) IN GENERAL.—The term ‘rehabilita-  
8       tion expenditures’ means amounts chargeable to  
9       capital account and incurred for property (or  
10      additions or improvements to property) of a  
11      character subject to the allowance for deprecia-  
12      tion in connection with the rehabilitation of a  
13      building.

14          “(B) COST OF ACQUISITION, ETC., NOT IN-  
15      CLUDED.—Such term does not include the cost  
16      of acquiring any building (or interest therein).

17          “(3) MINIMUM EXPENDITURES TO QUALIFY.—

18          “(A) IN GENERAL.—Paragraph (1) shall  
19      apply to rehabilitation expenditures with respect  
20      to any building only if the amount of such ex-  
21      penditures during any 24-month period is not  
22      less than 10 percent of the adjusted basis of the  
23      building (determined as of the 1st day of such  
24      period and without regard to paragraphs (2)  
25      and (3) of section 1016(a)).

1           “(B) DATE OF DETERMINATION.—The de-  
2           termination under subparagraph (A) shall be  
3           made as of the close of the 1st taxable year in  
4           the credit period with respect to such expendi-  
5           tures.

6           “(4) SPECIAL RULES.—Rules similar to the  
7           rules of paragraph (4)(A) and (5) of section 42(e)  
8           shall apply for purposes of this subsection.

9           “(f) DEFINITION AND SPECIAL RULES RELATING TO  
10          CREDIT PERIOD.—

11           “(1) CREDIT PERIOD DEFINED.—For purposes  
12          of this section, the term ‘credit period’ means, with  
13          respect to any building, the period of 10 taxable  
14          years beginning with—

15           “(A) the taxable year in which the building  
16           is placed in service, or

17           “(B) at the election of the taxpayer, the  
18           succeeding taxable year,

19          but only if the building is a qualified distressed area  
20          building as of the close of the 1st year of such pe-  
21          riod. The election under subparagraph (B), once  
22          made, shall be irrevocable.

23           “(2) SPECIAL RULES.—Rules similar to the  
24           rules of paragraphs (3), (4), and (5) of section 42(f)  
25           shall apply for purposes of this subsection.

1       “(g) LIMITATION ON AGGREGATE CREDIT ALLOW-  
2 ABLE WITH RESPECT TO BUILDINGS LOCATED IN A  
3 STATE.—

4               “(1) CREDIT MAY NOT EXCEED CREDIT  
5 AMOUNT ALLOCATED TO BUILDING.—

6               “(A) IN GENERAL.—The amount of the  
7 credit determined under this section for any  
8 taxable year with respect to any building shall  
9 not exceed the distressed area building credit  
10 dollar amount allocated to such building under  
11 this subsection.

12              “(B) TIME FOR MAKING ALLOCATION.—  
13 Rules similar to the rules of subparagraphs (B)  
14 through (F) of section 42(h)(1) shall apply for  
15 purposes of this paragraph.

16              “(2) ALLOCATED CREDIT AMOUNT TO APPLY  
17 TO ALL TAXABLE YEARS ENDING DURING OR AFTER  
18 CREDIT ALLOCATION YEAR.—Any distressed area  
19 building credit dollar amount allocated to any build-  
20 ing for any calendar year—

21              “(A) shall apply to such building for all  
22 taxable years in the credit period ending during  
23 or after such calendar year, and

1           “(B) shall reduce the aggregate distressed  
2           area building credit dollar amount of the credit  
3           allocating agency only for such calendar year.

4           “(3) DISTRESS AREA BUILDING CREDIT DOL-  
5           LAR AMOUNT FOR AGENCIES.—

6           “(A) IN GENERAL.—The aggregate dis-  
7           tressed area building credit dollar amount  
8           which a credit agency may allocate for any cal-  
9           endar year is the portion of the State distressed  
10          area building credit ceiling allocated under this  
11          paragraph for such calendar year to such agen-  
12          cy.

13          “(B) STATE CEILING INITIALLY ALLO-  
14          CATED TO STATE HOUSING CREDIT AGEN-  
15          CIES.—The State distressed area building credit  
16          ceiling for each calendar year shall be allocated  
17          to the housing credit agency of such State. If  
18          there is more than 1 housing credit agency of  
19          a State, all such agencies shall be treated as a  
20          single agency.

21          “(C) STATE DISTRESSED AREA BUILDING  
22          CREDIT CEILING.—The State distressed area  
23          building credit ceiling applicable to any State  
24          for any calendar year shall be an amount equal  
25          to the sum of—



1 “(i) \$1.25 multiplied by the State  
2 population,

3 “(ii) the unused State distressed area  
4 building credit ceiling (if any) of such  
5 State for the preceding calendar year,

6 “(iii) the amount of State distressed  
7 area building credit ceiling returned in the  
8 calendar year, plus

9 “(iv) the amount (if any) allocated  
10 under subparagraph (D) to such State by  
11 the Secretary.

12 For purposes of clause (ii), the unused State  
13 distressed area building credit ceiling for any  
14 calendar year is the excess (if any) of the sum  
15 of the amounts described in clauses (i) and (iii)  
16 over the aggregate distressed area building  
17 credit dollar amount allocated for such year.

18 “(D) UNUSED CREDIT CARRYOVERS ALLO-  
19 CATED AMONG CERTAIN STATES.—Rules similar  
20 to the rules of section 42(h)(2)(D) shall apply  
21 for purposes of this paragraph.

22 “(4) OTHER RULES TO APPLY.—Rules similar  
23 to the rules of subparagraphs (E), (F), and (G) of  
24 section 42(h)(2), and paragraphs (4), (5), and (7) of

1 section 42(h), shall apply for purposes of this sub-  
2 section.

3 “(5) DEFINITIONS.—For purposes of this sub-  
4 section—

5 “(A) CREDIT ALLOCATING AGENCY.—The  
6 term ‘credit allocating agency’ means any agen-  
7 cy authorized to carry out this subsection.

8 “(B) POSSESSIONS TREATED AS STATES.—  
9 The term ‘State’ includes a possession of the  
10 United States.

11 “(h) DEFINITIONS AND SPECIAL RULES.—For pur-  
12 poses of this section —

13 “(1) NEW BUILDING.—The term ‘new building’  
14 means a building the original use of which begins  
15 with the taxpayer.

16 “(2) EXISTING BUILDING.—The term ‘existing  
17 building’ means any building which is not a new  
18 building.

19 “(3) APPLICATION TO ESTATES AND TRUSTS.—  
20 In the case of an estate or trust, the amount of the  
21 credit determined under subsection (a) shall be ap-  
22 portioned between the estate or trust and the bene-  
23 ficiaries on the basis of the income of the estate or  
24 trust allocable to each.

1       “(i) APPLICATION OF AT-RISK RULES.—Rules simi-  
2 lar to the rules of section 42(j) shall apply for purposes  
3 of this section.

4       “(j) CERTIFICATIONS AND OTHER REPORTS TO SEC-  
5 RETARY.—

6               “(1) CERTIFICATION WITH RESPECT TO 1ST  
7 YEAR OF CREDIT PERIOD.—Following the close of  
8 the 1st taxable year in the credit period with respect  
9 to any qualified distressed area building, the tax-  
10 payer shall certify to the Secretary (at such time  
11 and in such form and in such manner as the Sec-  
12 retary prescribes)—

13               “(A) the taxable year, and calendar year,  
14 in which such building was placed in service,

15               “(B) the adjusted basis and eligible basis  
16 of such building as of the close of the 1st year  
17 of the credit period,

18               “(C) the maximum applicable percentage  
19 and eligible basis permitted to be taken into ac-  
20 count by the appropriate credit allocating agen-  
21 cy, and

22               “(D) such other information as the Sec-  
23 retary may require.

24       In the case of a failure to make the certification re-  
25 quired by the preceding sentence on the date pre-

1 scribed therefor, unless it is shown that such failure  
2 is due to reasonable cause and not to willful neglect,  
3 no credit shall be allowable by reason of subsection  
4 (a) with respect to such building for any taxable  
5 year ending before such certification is made.

6 “(2) REPORTS TO THE SECRETARY.—The Sec-  
7 retary may require taxpayers and credit allocating  
8 agencies to submit such reports as the Secretary de-  
9 termines necessary or appropriate to carry out the  
10 purposes of this section.

11 “(k) CREDIT ALLOCATED TO BUILDING NOT TO EX-  
12 CEED AMOUNT NECESSARY TO ASSURE PROJECT FEA-  
13 SIBILITY.—

14 “(1) IN GENERAL.—The distressed area build-  
15 ing credit dollar amount allocated to a building shall  
16 not exceed the amount the credit allocating agency  
17 determines is necessary for the financial feasibility  
18 of the building throughout the credit period.

19 “(2) AGENCY EVALUATION.—In making the de-  
20 termination under paragraph (1), the credit allocat-  
21 ing agency shall consider—

22 “(A) the sources and uses of funds and the  
23 total financing planned for the building,

24 “(B) any proceeds or receipts expected to  
25 be generated by reason of tax benefits, and

1           “(C) the percentage of the distressed area  
2           building credit dollar amount used for building  
3           costs other than the cost of intermediaries.

4           Subparagraph (C) shall not be applied so as to im-  
5           pede the development of buildings in hard-to-develop  
6           areas. Such a determination shall not be construed  
7           to be a representation or warranty as to the feasibil-  
8           ity or viability of the building.

9           “(3) DETERMINATION MADE WHEN CREDIT  
10          AMOUNT APPLIED FOR AND WHEN BUILDING  
11          PLACED IN SERVICE.—

12          “(A) IN GENERAL.—A determination  
13          under paragraph (1) shall be made as of each  
14          of the following times:

15               “(i) The application for the distressed  
16               area building credit dollar amount.

17               “(ii) The allocation of the distressed  
18               area building credit dollar amount.

19               “(iii) The date the building is placed  
20               in service.

21          “(B) CERTIFICATION AS TO AMOUNT OF  
22          OTHER SUBSIDIES.—Prior to each determina-  
23          tion under subparagraph (A), the taxpayer shall  
24          certify to the credit allocating agency the full  
25          extent of all Federal, State, and local subsidies

1           which apply (or which the taxpayer expects to  
2           apply) with respect to the building.

3           “(l) REGULATIONS.—The Secretary shall prescribe  
4 such regulations as may be necessary or appropriate to  
5 carry out the purposes of this section.”

6           (b) CREDIT TO BE PART OF GENERAL BUSINESS  
7 CREDIT.—

8           (1) Subsection (b) of section 38 of such Code  
9           is amended by striking “plus” at the end of para-  
10          graph (10), by striking the period at the end of  
11          paragraph (11) and inserting “, plus”, and by add-  
12          ing at the end the following new paragraph:

13           “(12) the distressed area building credit deter-  
14          mined under section 45C(a).”

15           (2) Subsection (d) of section 39 of such Code  
16          is amended by adding at the end the following new  
17          paragraph:

18           “(7) DISTRESSED AREA BUILDING CREDIT.—  
19          No portion of the unused business credit which is at-  
20          tributable to the credit determined under section  
21          45C (relating to distressed area building credit) may  
22          be carried to any taxable year ending before January  
23          1, 1996.”

24           (3) Subsection (c) of section 196 of such Code  
25          (relating to deduction for certain unused business

1 credits) is amended by striking “and” at the end of  
2 paragraph (6), by striking the period at the end of  
3 paragraph (7) and inserting “, and”, and by adding  
4 at the end the following new paragraph:

5 “(8) the distressed area building credit deter-  
6 mined under section 45C(a).”

7 (c) CLERICAL AMENDMENT.—The table of sections  
8 for subpart D of part IV of subchapter A of chapter 1  
9 of such Code is amended by adding at the end the follow-  
10 ing new item:

“Sec. 45C. Credit for nonresidential buildings in distressed  
areas.”

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to property placed in service after  
13 December 31, 1995.

